

State of Missouri)
County of St. Louis) ss
FILED FOR RECORD

JUL 5 1970
At 10:05 O'clock A.M.

[Signature]
Recorder of Deeds

AGREEMENT

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THIS AGREEMENT is made and entered into as of the 7th day of August, 1969, by and between COMMERCIAL DISCOUNT CORPORATION, a Delaware corporation, herein called "Seller," and COTTER CORPORATION (N.S.L.), a New Mexico corporation, herein called "Buyer."

A. RECITALS.

1. On June 9, 1967, Seller owned in excess of 54,000 dry tons of mineral residue located at 9200 Latty Avenue, and adjoining leased land described in the Lease, hereinafter referred to in paragraph B. 13 (a), Hazelwood, Missouri (the "Missouri site").

2. Buyer is now, and on June 9, 1967 was the owner and operator of a mineral processing plant near Canon City, Colorado, herein referred to as the "Plant."

3. Under date of June 5, 1967 Buyer and Seller entered into a Drummed Residue Purchase Agreement which provided for the processing of the mineral residue by Buyer and certain payments to Seller for the U₃O₈ contained therein. Under date of June 9, 1967 Seller and Buyer entered into a Residue Purchase Agreement which provided for the processing of other mineral residue by Buyer and certain payments to Seller for the U₃O₈ contained therein. The Drummed Residue Purchase Agreement and the Residue Purchase Agreement as amended by letter dated August 21, 1967 and by an agreement approved by Buyer March 25, 1968 and approved by Seller March 29, 1968, and as it may otherwise have been amended, are hereinafter collectively referred to as the "Residue Purchase Agreement."

4. A portion of the mineral residues were shipped to the Plant and are stockpiled at the Plant, such portion of the mineral residues being referred to herein as the "Colorado Residues."

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5. A portion of the mineral residues remain on the Missouri site. The Colorado Raffinate and the Congo Raffinate remaining on the Missouri site which contain at least 2/10 of 1% of U_3O_8 are hereinafter referred to as the "Missouri Residues." The other material remaining on the Missouri site, referred to herein as the "Clean-up Material," includes all Colorado and Congo Raffinate containing less than 2/10 of 1% of U_3O_8 , all the Drummed Residue, all the leached Barium Sulfate, all the Barium Sulfate, and all the C-Slag.

6. Seller and Buyer have determined that it is in their mutual interests to terminate the Residue Purchase Agreement and cause it to be superseded by this Agreement, pursuant to which, among other things, Seller will sell the Missouri Residues, the Clean-up Material and certain equipment described in Exhibit B (the "Equipment") to Buyer; Buyer will transport the Missouri Residues to the Plant, taking such steps, including drying, as Buyer deems necessary or appropriate prior to shipment; Buyer will pay Seller for the U_3O_8 contained in the Colorado Residues and the Missouri Residues; and following the clean-up operation at the Missouri site, Buyer will restore the surface of that portion of the Missouri site upon which the ore residue materials were stockpiled, disposing of the Clean-up Material as Buyer sees fit.

B. AGREEMENT.

In consideration of the premises and the mutual covenants herein provided to be kept and performed and the faithful performance thereof, Seller and Buyer agree as follows:

1. Agreement of Purchase and Sale. Subject to the terms and conditions of this Agreement, Sellers shall sell to Buyer and Buyer shall purchase the Missouri Residues and the Clean-up Material and complete payment for the Colorado Residues and the Equipment as hereinafter set forth.

2. Purchase Price. (a) The aggregate purchase price (the "purchase price") to be paid by Buyer to Seller for the Missouri Residues, the balance due on the Colorado Residues (title to the Colorado Residues has heretofore vested in Buyer under the Residue Purchase Agreement and certain acts performed thereunder), the Clean-up Material and the balance due on the Equipment shall consist of the following:

(i) Missouri Residues. An amount equal to the number of pounds of U_3O_8 contained in the Missouri Residues, as hereinafter determined, times \$2.70, which amount is hereinafter called the Missouri Residue purchase price.

(ii) Colorado Residues. The sum of \$596,766.04, which sum is hereinafter called the Colorado Residue purchase price.

(iii) Equipment. The sum of \$192,076.26, which sum is hereinafter called the Equipment purchase price.

(b) Buyer shall not pay Seller cash for the Clean-up Material but will perform at its own expense the clean-up operation and restore the surface of the Missouri site upon which the ore residue materials were stockpiled.

(c) The number of pounds of U_3O_8 contained in the Missouri Residues will not be determined until such material has been transported to the Plant, and weighed, sampled and assayed, as provided hereunder. The final calculation of the Missouri Residue purchase price shall be made in accordance with paragraph 5 hereof.

3. Payment of Purchase Price. (a) On or before August 20, 1969, and on or before the 20th day of each month thereafter until the purchase price is paid, Buyer shall pay a minimum of \$50,000 to Seller (except for the final payment which may be less than \$50,000), with Buyer having the right to make monthly payments in excess of \$50,000.

(b) The monthly payments to be made hereunder shall be applied to the reduction of the purchase price in the following order:

First, to the Missouri Residue purchase price to the extent of \$300,000, and subject to the final accounting provided for hereunder;

Second, to the Equipment purchase price;
and

Third, to the Colorado Residue purchase price.

4. Interest. (a) In addition to the purchase price, Buyer shall pay interest to Seller on the Colorado Residue purchase price at the rate of 10% per year commencing December 1, 1968. Such interest shall be payable in cash as follows:

November 1, 1969	\$28,180.61
February 1, 1970	\$28,180.61
May 1, 1970	\$28,180.63

(b) Interest at the rate of 10% per year shall accrue after May 1, 1970 on the declining balance of the Colorado Residue purchase price, as such price is reduced each month thereafter by the monthly payments to be made hereunder. All accrued interest shall be paid by or credited to Buyer in accordance with paragraph 5 hereof.

5. Final Accounting. Promptly upon the arrival at the Plant of the final lot of Missouri Residues, such material shall be weighed, sampled and assayed as provided hereunder. Thereupon, a final computation shall be made of the Missouri Residue purchase price. It is intended that monthly payments under paragraph 3 above be applied first to fully pay the Missouri Residue purchase price as finally determined. On such determination, interest accruing after May 1, 1970 will be recalculated on the basis that payments have been first applied to the final Missouri Residue purchase

price, second to the Equipment purchase price, and third to the Colorado Residue purchase price.

6. Closing Date. The closing shall take place at the offices of Holme Roberts & Owen, 1700 Broadway, Denver, Colorado, at 10:00 A. M., local time, on December 29, 1969, or on such earlier or later date or at such other place as shall be fixed by mutual written agreement of the parties hereto, such time being referred to in this Agreement as the "Closing Date."

7. Instruments of Transfer. On the Closing Date, Seller shall convey, assign, transfer and deliver to Buyer and Buyer shall accept and acquire the Missouri Residues, the Clean-up Material and the Equipment. The instrument or instruments of conveyance, assignment and transfer shall contain full warranties of title by Seller and shall be in a form satisfactory to Buyer's counsel.

8. Conditions to Seller Closing. The obligations of Seller under this Agreement are subject in the discretion of Seller to the satisfaction at or prior to the Closing Date of the following conditions:

(a) All representations and warranties of Buyer contained in this Agreement shall be true in all material respects at and as of the Closing Date as if such representations and warranties were made at and as of the Closing Date.

(b) At the Closing Date no suit, action or other proceeding shall be pending before any court or governmental agency in which it is sought to restrain or prohibit the consummation of the transactions contemplated by this Agreement.

(c) On the Closing Date a written guarantee by Robert O. Anderson and Donald B. Anderson, guaranteeing the Buyer's obligations hereunder, shall be delivered to the Seller.

(d) Seller shall have received an opinion dated the Closing Date of Holme Roberts & Owen, counsel for Buyer, to

the effect that this Agreement has been duly authorized, executed and delivered by Buyer; and, subject to due execution by Seller, constitutes a valid and binding agreement of Buyer in accordance with its terms.

9. Conditions to Buyer Closing. The obligations of Buyer under this Agreement are subject in the discretion of Buyer to the satisfaction at or prior to the Closing Date of the following conditions:

(a) All representations and warranties of Seller contained in this Agreement shall be true in all material respects at and as of the Closing Date as if such representations and warranties were made at and as of the Closing Date.

(b) At the Closing Date no suit, action or other proceeding shall be pending before any court or governmental agency in which it is sought to restrain or prohibit the consummation of the transactions contemplated by this Agreement.

(c) Buyer shall have received an opinion dated the Closing Date of Dawson, Nagel, Sherman & Howard, counsel for Seller, to the effect that this Agreement has been duly authorized, executed and delivered by Seller, and, subject to due execution by Buyer, constitutes a valid and binding agreement of Seller in accordance with its terms.

(d) From and after the date of this Agreement and prior to the Closing Date, there shall not have been any adverse change in the Missouri Residues, Clean-up Material or Equipment or in Seller's interest therein.

10. Titles. (a) Seller shall have good and marketable title to the Missouri Residues and Clean-up Material free and clear of all royalty, overriding royalty, production payments, mortgages, liens, encumbrances, claims or demands of any nature. Seller shall also have good and marketable title to the Equipment free and clear

of all mortgages, liens, encumbrances, claims or demands of any nature. If Buyer, prior to the Closing Date, shall take exception to the title of Seller to the Missouri Residues, the Clean-up Material or the Equipment, and the defects or encumbrance to which Buyer has taken exception materially affect the value of the Missouri Residues or the Clean-up Material as a whole or the Equipment as a whole, as the case may be, this Agreement may be terminated by Buyer by notice to Seller.

(b) Seller agrees to indemnify Buyer and hold it harmless from all suits, actions, damages, costs (including, but not limited to attorneys' fees, liabilities, losses, claims and demands arising from or related to claims of third parties against the Buyer, the Missouri Residues, the Clean-up Material or the Equipment, or to taxes, license fees or charges thereon) attributable to the operation of the Missouri site for the period prior to the Closing Date.

11. Shipping the Missouri Residues. Prior to October 1, 1971 or the date fixed by any notice of termination given by the lessor for the termination of the lease referred to in paragraph B. 13 (a), whichever date occurs earlier, the Missouri Residues shall be loaded by Buyer into railroad cars which are in condition sufficient to prevent loss of the material in transit. In the event any of the material is lost in transit, Seller shall have no claims or rights against Buyer for such loss except to the extent of the amount of payment as provided herein would be reduced by delivery at Canon City of less of the material because of such loss in transit. Buyer shall pay all costs and charges incurred in connection with the shipping and delivery of the Missouri Residues and shall pay all demurrage and all costs and charges incurred in unloading the Missouri Residues at the point of delivery in Canon City, Colorado, and in transporting the material to the Plant.

Buyer will unload and transport the Missouri Residues in a workman-like manner using methods designed to prevent unnecessary waste of the material. Buyer agrees to furnish Seller with copies of all railroad bills of lading and further agrees to designate with respect to the material covered thereby whether the same contains Colorado and/or Congo Raffinate referred to in paragraph A. 5. above as Missouri Residues, insofar as such determination reasonably can be made at the time of loading by inspection of the color and/or texture of the material being shipped.

12. Determination of Dry Weight and U_3O_8 Content. . (a)

The net weight of each truck load of Missouri Residues unloaded from the railway cars in Canon City shall be determined by weighing each truck, loaded and empty, on scales to be provided by Buyer at the Plant. A receipt for each such delivery shall be furnished to Seller showing the net ton weight of the Missouri Residues. Representative samples of each truck load shall be taken at the time of weighing or as soon thereafter as possible, and the moisture content determined in Buyer's laboratory by methods generally employed in the industry, thereby establishing the dry weight of each truck load. A receipt showing the dry weight of each load shall be furnished to Seller as soon as practicable after the dry weight has been established.

(b) The Missouri Residues shall be accumulated by Buyer into lots of not less than 150 tons each and not more than 250 tons each sampled and assayed as herein provided, except that the final lot may be smaller or larger than such limits. Buyer shall sample the Missouri Residues by methods presently employed by it in accordance with contractual requirements imposed upon Buyer by the Atomic Energy Commission. A representative portion of each sample of each lot of Missouri Residues will be divided into four pulps and distributed as follows: Seller or his representative will

receive one pulp; Buyer will retain one pulp; the remaining two pulps will be reserved by Buyer for possible umpire analysis. Buyer shall make, or cause to be made, an assay of Buyer's pulp for U_3O_8 content. Seller may assay his pulp, but if he fails to make an assay, the assay of Buyer shall be accepted as final. If both parties make assays, the results of Buyer's assay and Seller's assay of the respective sample pulps shall be exchanged by crossing certified mail or other methods mutually agreed upon by the parties. Both parties hereto agree that such cross-mailing shall be made by each party by mailing assay reports on the tenth day of each month or the business day next following in the event the tenth day falls on a Saturday, Sunday or holiday. If the average per cent deviation between the assays as to U_3O_8 content is less than 4.00%, then the average of the assays shall be final. If the average per cent deviation between the assays as to U_3O_8 content is greater than 4.00%, then one of the pulps of the sample held in reserve shall be submitted to any mutually acceptable laboratory for umpire assay. Any such umpire assay shall be final if within the limits of the assays of Buyer and Seller. If not, the assay which is nearer to that of the umpire assay shall prevail. The party whose assay is furthest from that of the umpire shall pay the cost of the umpire assay. In the event the umpire assay is equally distant from the assay of each party, the cost of the assay shall be split equally. The U_3O_8 content thus determined shall, for all purposes, be the U_3O_8 content of the lot of Missouri Residues to which such determination relates, and Buyer shall report the Missouri Residue purchase price of each such lot to Seller as soon as the U_3O_8 content of each such lot has been determined. Upon the completion of the sampling and assaying provided for hereunder, Buyer shall have no obligation after ten (10) days from the mailing of the aforesaid report of purchase price to retain segregation of

the lots of Missouri Residues and may freely commingle the material with other ores and minerals.

13. Certain Agreements of Seller. (a) Seller shall keep the Lease covering 7.55 acres on Latty Avenue, Hazelwood, Missouri, dated February 22, 1967, between Norfolk and Western Railway Company and Seller in good standing and shall pay all rentals and other sums required under such Lease. Seller shall promptly give Buyer notice of any notification or communication from the Lessor under such Lease, particularly any notices of termination.

(b) Seller shall keep the leasehold interest created by the above described lease and the adjacent tract owned by Seller free and clear of all encumbrances, liens, contracts and agreements during the term of this Agreement.

(c) Seller shall permit Buyer at all times during the term of this Agreement to have free and exclusive use of the Missouri site (including Seller's fee and leasehold land and all buildings and improvements situated thereon) for Buyer's use in stockpiling, drying, storing, loading and shipping all material and equipment sold hereby and for all other legal uses or purposes for which such property may be utilized.

(d) After the date hereof and prior to the Closing Date, Seller shall keep the Equipment and the buildings and improvements located on Seller's fee land at 9200 Latty Avenue, Hazelwood, Missouri, fully insured with a responsible insurance carrier or carriers and in amounts adequate to insure the replacement of such Equipment, buildings and improvements.

14. Certain Agreements of Buyer. Buyer hereby agrees that from and after the Closing Date it will take all reasonably necessary precautions in the storage, handling and shipping of the Missouri Residues to prevent damage or injury to adjoining property owners, lessees or others, and that the Buyer will prevent the Missouri Residues from encroaching on the property adjoining the

Missouri site. Buyer agrees to indemnify Seller and hold it harmless from all suits, actions, damages, costs (including, but not limited to, attorneys' fees, liabilities, losses, claims and demands arising from or related to claims of third parties against the Seller or the Missouri Residues, the Clean-up Materials or the Equipment, or to taxes, license fees or charges thereon) attributable to the operation of the Missouri Site for the period subsequent to the Closing Date. Buyer shall restore the surface of that portion of the Missouri site upon which the ore residue materials were stockpiled in a manner sufficient to meet the requirements of the above described lease, the requirements of the Atomic Energy Commission and the State of Missouri, and complete all such work by October 1, 1971 or the date fixed by any notice of termination given by the Lessor for the termination of the Lease referred to in paragraph B. 13 (a), whichever date occurs earlier.

15. Seller's Representative on Buyer's Premises. Buyer agrees to permit agent of Seller to enter Buyer's premises at any time during the term of this Agreement and be permitted to inspect and review all actions to be performed by Buyer hereunder and to inspect and copy during normal office hours such records as are required by Seller to verify Buyer's performance hereunder.

16. Assignment of Agreement. Buyer shall not transfer or assign its rights under the terms of this Agreement without the written consent of Seller, which consent will not be unreasonably withheld; provided, that if Buyer shall merge into or become consolidated with another corporation, Seller's consent to the assignment shall not be required if (a) the corporation surviving such merger or consolidation assumes in writing the Buyer's obligations hereunder; and (b) the corporation surviving such merger

or consolidation shall, in the judgment of Seller, be financially and otherwise capable to perform Buyer's obligations under this Agreement.

17. Force Majeure. If at any time prior to May 1, 1970 Buyer is actively engaged in the drying and shipping of the Missouri Residues and is enjoined or prevented from the continuation of such drying and shipping by any person, corporation or governmental agency, the monthly payments to be made by Buyer hereunder shall be applied to the reduction of the Colorado Residue purchase price until such time as the injunction or prohibition is removed.

18. Guaranty. Buyer's obligations hereunder shall be guaranteed in writing by Robert O. Anderson and Donald B. Anderson. Upon the execution and delivery to Seller of such guaranty, all previous guaranties made by Robert O. Anderson and Donald B. Anderson in any way relating to the Residue Purchase Agreement shall be null and void. Such written guarantee shall survive any merger, consolidation, sale or other disposition of Buyer subsequent to the Closing Date.

19. Notices. All notices or instructions required to be given under the terms hereof shall be in writing and shall be validly and sufficiently made and given if mailed, postage prepaid, by certified mail, to Buyer at P. O. Box 1000, Roswell, New Mexico 88201, or to Seller at 105 West Adams, Chicago, Illinois 60603.

20. Construction of Agreement. This Agreement shall be deemed to be a contract under the laws of the State of Colorado and for all purposes shall be construed in accordance with such laws.

21. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first above written.

ATTEST:

Robert E. Stonberg
Secretary

COMMERCIAL DISCOUNT CORPORATION

By [Signature]
President

SELLER

ATTEST:

S. H. Cavin
Secretary

COTTER CORPORATION (N.S.L.)

By David P. Marcott
Executive Vice President

BUYER

STATE OF NEW MEXICO)
COUNTY OF CHAVES) ss

The foregoing instrument was acknowledged before me this 2nd day of January, 1970, by David P. Marcott and S. H. Cavin, Executive Vice President and Secretary, respectively, of Cotter Corporation (N.S.L.), a New Mexico corporation, on behalf of said corporation.

Witness my hand and official seal.



Linda Orducci
Notary Public

My Commission expires:

4-22-73

END OF DOCUMENT

NO 6435 REC 1780